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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 BRAYDEN STARK and JUDD OOSTYEN, on
14 behalf of themselves and all others similarly
situated,

15 Plaintiffs,

16 v.

17 PATREON, INC,

18 Defendant.

Case No. 3:22-cv-03131-JCS

**DECLARATION OF SIMON GRILLE IN
SUPPORT OF PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR LEAVE TO
ADD PLAINTIFFS TO FIRST AMENDED
CLASS ACTION COMPLAINT**

Judge: Hon. Joseph C. Spero

Date: February 16, 2024

Time: 9:30 a.m.

Courtroom: D – 15th Floor

1 I, Simon Grille, hereby declare under penalty of perjury:

2 1. I am a Partner at the law firm Girard Sharp LLP. I submit this declaration in support
3 of Plaintiffs' Notice of Motion and Motion for Leave to Add Plaintiffs to First Amended Class Action
4 Complaint. I am admitted to practice before this Court. I make this declaration based on my own
5 personal knowledge. If called to do so, I could and would testify to the matters contained herein.

6 2. Attached hereto as Exhibit 1 is a true and correct copy of the Proposed Second
7 Amended Class Action Complaint ("SAC"), with all amendments to the First Amended Class
8 Action Complaint (Dkt. 41) reflected in redline.

9 3. Attached hereto as Exhibit 2 is a true and correct copy of the clean version of the
10 Proposed SAC.

11 4. Patreon subscribers can access prerecorded video content in several ways, such as by
12 watching it from a list of content on a creator's "creator page" or on a dedicated video webpage that
13 appears when a user clicks a specific video.

14 5. In November 2023, Patreon argued, for the first time, that the technical configuration
15 of its website precluded the Meta Pixel from transmitting the title of prerecorded video content
16 watched on a "creator page."

17 6. According to Patreon, subscribers who exclusively watched prerecorded video
18 content on a "creator page" could not maintain a claim under the VPPA.

19 7. Patreon claims that its records indicate that Plaintiffs Brayden Stark and Judd
20 Oostyen only watched prerecorded video content on "creator pages."

21 8. Plaintiffs contend the configuration of Patreon's website would not have prevented
22 the Meta Pixel from transmitting the personal information and specific video materials Plaintiffs
23 requested.

24 9. Plaintiffs intend to show that Patreon coded its website so that video titles could be
25 clearly identified and transmitted to advertising platforms like Meta.

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10. After Patreon raised its argument regarding the technical configuration of its website, Isaac Belenkiy, Laura Goodfield, Valerie Burton, and Denovias Mack (“Proposed New Plaintiffs”) retained Plaintiffs’ counsel on November 15, 2023, December 11, 2023, December 23, 2023, and January 8, 2024, respectively. These individuals allege they watched videos on a Patreon webpage dedicated to the individual video(s) they viewed.

11. On January 8, 2024, Plaintiffs’ counsel contacted Patreon’s counsel via email to request Patreon’s consent to amend the First Amended Complaint (“FAC”) to name Isaac Belenkiy, Laura Goodfield, Valerie Burton, and Denovias Mack as plaintiffs in this litigation. Plaintiffs counsel also provided the full names and email addresses of the Proposed New Plaintiffs to Patreon at this time.

12. On January 11, 2024, Patreon’s counsel informed Plaintiffs’ counsel that Patreon does not currently take a position on Plaintiffs’ request for leave to amend and Plaintiffs therefore should proceed with filing the present motion. Patreon’s counsel also advised it would discuss the matter further with Plaintiffs’ counsel. Patreon’s counsel further stated that Patreon was still investigating “the specific manner in which the four new proposed plaintiffs may have obtained video on the Patreon platform.”

13. On January 16, 2024, Plaintiffs’ counsel informed Patreon’s counsel that the Proposed New Plaintiffs would respond to Patreon’s existing discovery requests within 14 days of an order granting Plaintiffs’ motion for leave to amend the FAC and provide their availability for a deposition within 30 days of such an order.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of January 2024 in San Francisco, CA.

/s/ Simon Grille
Simon Grille

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2024 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Simon Grille
Simon Grille